



**Testimony before the Labor Committee in Support of
HB 5249, AAC Noncompete Agreements
March 3, 2022**

Good morning, Senator Kushner, Representative Porter and distinguished members of the Labor Committee. Thank you for this opportunity to testify today in support of HB 5249, AAC Noncompete Agreements. My name is Sara Parker McKernan and I am a Legislative/Policy Advocate, for CT's Legal Services Programs which include New Haven Legal Assistance, Greater Hartford Legal Aid and CT Legal Services. The Legal Services Programs provide free legal services to low income individuals in civil matters throughout the state. We have been particularly involved in developing policy to support low wage workers and their families.

We support the language of HB 5249 which, among other things, prohibits noncompete agreements for those employees earning less than three times the minimum wage (CT's minimum wage is currently \$13 an hour or \$29,172 annually). HB 5249 addresses the growing problem of low wage workers who are forced to sign agreements prohibiting them from doing similar work after leaving an employer. These noncompete agreements damage the economic well-being of low wage workers and their families.

A noncompete agreement prohibits employees from engaging in a particular occupation or type of work for a defined time period and in a defined geographic area after separating from an employer. Traditionally, noncompete covenants were intended to protect an employer's competitive advantage by preventing more highly trained and compensated employees from taking a job at a competing business and disclosing specialized knowledge and skills acquired at the former employer.

In recent years however, employers have required low wage workers – including fast food workers, commercial cleaners, and home health aides to sign covenants not to compete. In a 2019 report from the Economic Policy Institute based on U.S. Treasury data, 29% of surveyed employers whose employees' average wage was less than \$13, use non-competes for all their workers. These workers do not have specialized technical skills and are not privy to trade secrets held by higher paid employees.

Even a one-year restriction on engaging in the same type of work in a 10 to 15 mile area adversely impacts employment opportunities. Many low wage workers do not have skills

adaptable to other jobs and they depend on public transportation. Non-compete agreements can prevent them from seeking or accepting better jobs with higher wages and bars employers from hiring these often more experienced and more qualified employees. Because of these negative consequences, 27 states, including Massachusetts, New York, Maine and New Hampshire, have restricted employers' ability to require non-compete covenants in some way.

At-will employees in CT have very limited bargaining power in their work environment. A noncompete agreement elevates their fear of violating their employment contract and losing their job. Workers very often assume that noncompete agreements are valid and enforceable and lack the financial resources to hire an attorney and challenge them in court. The power disparity between low wage workers and their bosses means that workers with noncompete clauses often stay in their jobs instead of finding new and better jobs. Rather than just rendering noncompetes unenforceable, HB 5249 would prohibit them which sends the message that they shouldn't even be contemplated by an employer.

It's important to note that HB 5249 contains provisions that help all workers in the workplace – not just low income workers. HB 5249 extends the prohibition on noncompete agreements to some independent contractors. It also limits employers' ability to forbid workers and contractors from working a second job. But it also balances these constraints on employers with constraints on workers: it forbids workers from soliciting a former employer's prior customers or workers after separating. Non-solicitation clauses and exclusivity agreements containing reasonable parameters are permissible within this proposal.

We urge the Committee to pass HB 5249, which protects low wage workers who often live paycheck-to-paycheck, from covenants not to compete.